

Message Text

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ACTION ARA-14

INFO OCT-01 ISO-00 COME-00 H-02 /017 W
-----099367 282257Z /64

P R 282130Z APR 78
FM AMCONSUL GUAYAQUIL
TO SECSTATE WASHDC PRIORITY 6105
INFO AMEMBASSY QUITO

UNCLAS GSECTION 1 OF 2 GUAYAQUIL 0710

EO 11652: N/A
TAGS: BDIS, EC
SUBJ: CONGRESSIONAL INQUIRY: CONFISCATION OF U.S. PRODUCTS BY
ECUADOREAN CUSTOMS

REF: STATE 107862

1. YES, U.S. PRODUCTS BOUND FOR PANAMA VIA GUAYAQUIL ON
ANDES AIRLINES (ECUADOREAN FLAG) WERE CONFISCATED ON
MARCH 18, 1978 BY THE MILITARY CUSTOMS POLICE AT GUAYAQUIL
AIRPORT.

2. MR. RICARDO MANRIQUE, ANDES COMMERCIAL MANAGER, AD-
VISED COMMERCIAL OFFICER OF INCIDENT ON APRIL 6, 1978.
ON APRIL 7, COMMERCIAL OFFICER VISITED DIRECTOR AND AD-
MINISTRATOR OF THE GUAYAQUIL CUSTOMS DISTRICT. ADMIN-
ISTRATOR ADVISED THAT HIS DEPARTMENT ENTERS A CASE ONLY
WHEN THEY RECEIVE FROM THE MILITARY REPEAT MILITARY
CUSTOMS POLICE OFFICE THE MERCHANDISE AND A WRITTEN
STATEMENT AS TO WHY CONFISCATION OCCURRED. ADMINISTRATOR
OF CUSTOMS CANNOT AND WOULD NOT PRESSURE THE MILITARY
CUSTOMS POLICE TO RELEASE TO HIM THIS OR ANY OTHER CON-
FISCATION. DIRECTOR OF CUSTOMS ARRANGED AN APPOINTMENT
FOR COMMERCIAL OFFICER WITH CAPT. JARRIN OF THE MILITARY
CUSTOMS POLICE FOR APRIL 10 TO DISCUSS AND OBTAIN RELEASE
OF THE SHIPMENT CONFISCATED. COMMERCIAL OFFICER RE-
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VIEWED WITH THESE CUSTOMS OFFICIALS ALL SHIPPING DOCU-
MENTS, AND THE DIRECTOR AGREED THAT THE MERCHANDISE WAS
BOUND TO PANAMA LEGALLY, VIA GUAYAQUIL. HOWEVER, THE
DIRECTOR CLARIFIED WHY CONFISCATION HAD OCCURRED; IT WAS
BECAUSE THE MIAMI OFFICE OF ANDES AIRLINES DID NOT PRE-
PARE THE MANIFEST CORRECTLY AND CONTAINED ERRORS.

3. AT THE APRIL 10 MEETING WITH CAPT. JARRIN, COMMERCIAL OFFICER ATTEMPTED TO HAVE THE CARGO RELEASED IMMEDIATELY TO ANDES AIRLINES. CAPT. JARRIN ADVISED THAT ECUADOREAN LAW DOES NOT PERMIT HIM TO RELEASE THE CARGO TO ANDES NOR TO OTHERS, BUT ONLY TO THE ADMINISTRATOR OF CUSTOMS TO DETERMINE DISPOSITION. IT WAS DIFFICULT TO INSIST ON CAPT. JARRIN DISREGARDING THE LAW. HE DID AGREE TO START THE PROCESS TO PHYSICALLY TRANSFER THE CARGO TO CUSTOMS AND TO FILE THE REQUIRED PAPERWORK. CAPT. JARRIN EXPLAINED THAT HE PERSONALLY CONFISCATED THE CARGO BECAUSE THE MANIFEST WAS WRONG, AND THAT IT WAS THE ADMINISTRATOR OF CUSTOMS' JOB TO DETERMINE WHETHER THERE EXISTED AN ATTEMPT TO CONTRABAND. CAPT. JARRIN WAS REASSIGNED TO QUITO ON APRIL 7, AND ON APRIL 10 HE WAS PREPARING TO TRANSFER HIS WORK TO HIS REPLACEMENT.

4. CAPT. JARRIN CLAIMED THAT HE COULD NOT TRANSFER THE CARGO UNTIL CUSTOMS ALLOCATED SPACE IN THEIR WAREHOUSES. ON APRIL 12, COMMERCIAL OFFICER AGAIN MET WITH CAPT. JARRIN AND WITH THE ECUADOREAN CUSTOMS WAREHOUSE SUPERVISOR. IT WAS AGREED THAT TRANSFER WOULD TAKE PLACE ON APRIL 14. PLEASE NOTE THAT IN GUAYAQUIL, DUE TO HEAVY RAINS, IT IS MOST IMPORTANT TO STORE CARGO UNDER ROOF. UNFORTUNATELY, SHELTERED SPACE IS NOT AVAILABLE AT CUSTOMS IN SUFFICIENT VOLUME TO SECURE ALL CARGO. CUSTOMS HAS PRESENTLY UNDER CONSTRUCTION A NEW WAREHOUSE. THE UNCLASSIFIED

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MILITARY CUSTOMS POLICE STORED THIS CARGO IN THEIR HEAD-QUARTERS, UNDER ROOF.

5. ON APRIL 17, THE DIRECTOR OF CUSTOMS WAS FIRED BY THE ECUADOREAN GOVERNMENT.

6. FROM APRIL 17 TO APRIL 20, ADMINISTRATOR CLAIMED THAT HE HAD NOT RECEIVED THE REQUIRED PAPERWORK FROM THE MILITARY CUSTOMS POLICE. DURING THE SAME PERIOD, CAPT. JARRIN ADVISED ON NUMEROUS OCCASIONS THAT THE PAPERWORK WAS BEING PREPARED. ON APRIL 21, COMMERCIAL OFFICER VISITED ADMINISTRATOR OF CUSTOMS BECAUSE NO PROGRESS WAS BEING MADE, AND ACCORDING TO ANDES, HE HAD REVERSED HIS DECISION AND DECIDED NOT TO RELEASE THE CARGO AND TO PROSECUTE ANDES AIRLINES. THIS MEANT THAT CARGO COULD NOT BE RELEASED UNTIL A LEGAL DECISION WAS REACHED AS TO THE DISPOSITION OF THE CARGO.

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-----099536 282300Z /64

P R 282130Z APR 78
FM AMCONSUL GUAYAQUIL
TO SECSTATE WASHDC PRIORITY 6106
INFO AMEMBASSY QUITO

UNCLAS SECTION 2 OF 2 GUAYAQUIL 0710

NOTE: ADMINISTRATOR RECEIVES FOR HIS SERVICES
TWENTY-FIVE PERCENT OF THE VALUE OF THE CARGO WHEN
MERCHANDISE IS AUCTIONED. DUE TO ABOVE SITUATION, COM-
MERCIAL OFFICER INVITED A CONGEN AMERICAN OFFICER TO
ASSIST HIM AS THE OFFICER IS A FRIEND OF THE ADMINISTRATOR.
AT THE MEETING, ADMINISTRATOR ADVISED THAT HE WOULD PRO-
SECUTE ANDES AIRLINES AND REQUESTED A NOTE FROM THIS
CONSULATE GENERAL OUTLINING OUR INTEREST IN THIS CASE.
COMMERCIAL OFFICER TOOK EXCEPTION TO THESE TWO POINTS
AND ADMINISTRATOR REPLIED BY STATING THAT HE WOULD RE-
LEASE THE CARGO ONLY IF ANDES AIRLINES POSTED A BOND
EQUAL TO THE VALUE OF THE CARGO. PRIOR TO THIS MEETING,
THE "GAME PLAN" AGREED TO BY ANDES AIRLINES AND COM-
MERCIAL OFFICER WAS TO HAVE THE ADMINISTRATOR ACCEPT
THE POSTING OF A BOND. COMMERCIAL OFFICER ACCEPTED THE
ISSUING OF A BOND. NOTE: UNTIL THIS MEETING, CUSTOMS
OFFICIALS WERE NOT INTERESTED IN MEETING WITH ANDES'
REPS, SO COMMERCIAL OFFICER WAS ACTING AS
A MEDIATOR. HOWEVER, ANDES' LAWYER NOW WAS ABLE TO ENTER
STRONGLY INTO THIS CASE TO NEGOTIATE THE BOND AND THE
RELEASE OF THE CARGO. THE BOND WAS RELEASED TO THE
ADMINISTRATOR ON APRIL 24. THE ADMINISTRATOR SUBSEQUENTLY AD-
VISED ANDES THAT THE CARGO WOULD BE RELEASED AT 10:00 AM
APRIL 28, 1978. MR. MANRIQUE OF ANDES CONFIRMED AT
9:00 AM APRIL 28 THE RELEASE OF CARGO BY CUSTOMS AND
ITS SHIPMENT TO PANAMA ON SAT., APRIL 29, 1978.
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7. OTHER VISITS AND NUMEROUS TELEPHONE CALLS WERE
MADE AND RECEIVED BY COMMERCIAL OFFICER. A MR. LARRY

DAVIS OF UNIVERSAL FORWARDING, MAIMI (TEL. 305-592-4317) TELEPHONED ON SEVERAL OCCASIONS TO INQUIRE AS TO STATUS OF CASE. ON APRIL 25 OR 26, MR. MARCONI (TEL 305-887-6502) OF THE U.S. HANDBAG MANUFACTURERS TELEPHONED TO INQUIRE ON STATUS. HE WAS IMPATIENT AT THE SITUATION AND WAS NOT PLEASED WHEN COMMERCIAL OFFICER COULD NOT CONFIRM AN EXACT DATE OF RELEASE AND DEPARTURE OF HIS SHIPMENT. HE FURTHER ADVISED COMMERCIAL OFFICER THAT HE WOULD GO "AS HIGH AS POSSIBLE" TO OBTAIN ASSISTANCE. ON APRIL 27, COMMERCIAL OFFICER TELEPHONED MR. MARCONI TO RELATE THAT THE CARGO WOULD BE RELEASED FRIDAY, APRIL 28, AND FLOWN TO PANAMA ON SAT., APRIL 29.

8. AFTER COMMERCIAL OFFICER SPENT HIS PRIVATE MONEY AND AUTOMOBILE IN BEHALF OF THIS SITUATION, AND HAS DEVOTED NUMEROUS HOURS THAT COULD HAVE BEEN EMPLOYED IN ASSISTING OTHER U.S. EXPORTERS, IT IS SUGGESTED THAT MR. MARCONI BE PROVIDED WITH A COPY OF THIS CABLE FOR HIS COMMENTS. IT WOULD HAVE BEEN A PLEASURE TO HAVE BEEN ABLE TO REPORT ON APRIL 7 THAT THE CONFISCATED CARGO HAD BEEN DISPATCHED TO PANAMA.
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